

## REMARKS

Claims 44-51 are active in this application. Support for these claims is found in Claims 36, 38-41 and 43, and the specification as originally filed. No new matter is believed to be added by the amendment. Applicants wish to thank Examiner Hutson for the courteous telephone discussion granted to the Applicants' undersigned representative on January 8, 2002 to clarify the rejection under 35 U.S.C. § 103(a) over Brisson-Noel et al. In view of the amendments submitted herein and the following remarks, favorable reconsideration and allowance of all pending claims is kindly requested.

The rejection of Claims 36, 38, 41 and 43 under 35 U.S.C. § 103(a) over Brisson-Noel et al. is obviated by the cancellation of these claims.

As this rejection may apply to pending Claims 44-46, the rejection is traversed for the following reasons.

Brisson-Noel et al. disclose cloning a 4kb and 6kb Eco R1 fragments of a plasmid, which confers high level glycopeptide resistance in *Enterococcus facium*. The 4kb fragment harbors a vanA determinant which confers resistance to glycopeptides in Gram-positive bacteria. Brisson-Noel et al do not describe the nucleotide or amino acid sequences of the vanA determinant, nor does it suggest mechanisms to explain the observed resistance to glycopeptides associated with the plasma. Rather, the reference teaches that it is not possible to identify the exact nature of the determinant present on the 4kb fragment since "additional sequences present on the 6kb Eco R1 fragment appeared to be required for full expression of the glycopeptide resistance phenotype." (Page 925, left column, lines 11-16). In contrast, the claimed invention is now directed to a composition comprising at least three protein or functional fragments thereof, which the inventors have observed is required to confer resistance to the glycopeptides when expressed in Gram-positive bacteria. (See for example,

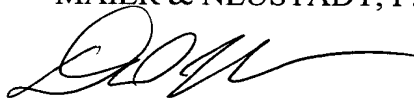
Page 5, lines 10-19). Therefore, the present invention surprisingly provides that not one, but at least three proteins are involved in the resistance to antibiotics. Since the Brisson-Noel et al. prior art reference neither discloses or suggests the combination of at least three proteins or functional fragments thereof, the present claims cannot be obvious in view of this publication. In view of the foregoing, withdrawal of this ground of rejection is requested.

Applicants submit that the present application is now in a condition for allowance.

Early notification of such allowance is requested.

Respectfully submitted,

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**IN THE CLAIMS**

Claims 36, 38-41 and 43 are canceled.

Claims 44-51 are New.